

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	
	:	
V.	:	No. 19-cr-00518-001
	:	
	:	
NEIL K. ANAND	:	

Neil K. Anand's Combined Motion
and Memorandum of Law
for Order for Government Agents to Retain Rough Notes

COMES NOW, Neil K. Anand, Defendant, by and through his counsel, Coley O. Reynolds, Esquire, moving for an Order requiring all government law enforcement officers who investigated the charges in this and related cases to retain and preserve all rough notes as part of their investigation, notwithstanding whether or not the contents of said notes were incorporated in official records.

This motion is made to enable the Trial Court to determine whether disclosure of the said notes is required under *Brady v. Maryland*, 3737 U.S. 83 (1963), or the *Jencks* Act (18 U.S.C. Section 3500). In support of this motion, the following is submitted:

In *United States v. Vella*, 562 F.2d 275 (3d. Cir. 1977), the Third Circuit adopted the procedure regarding retention of rough notes set forth in *United States v. Harrison*, 524 F.2d 421 (D.C. Cir. 1975). *Harrison* held the decision regarding

whether rough notes are discoverable is for the Court to decide and not the government. Further, *Harrison* requires the Court to decide what constitutes a producible “statement” under the *Jencks* Act, not the government. *Id.* 18 U.S.C.A. § 3500-355(e).

Rough, handwritten notes taken by agents of the government in interviewing witnesses are potentially discoverable material required to be preserved and produced even if the notes were not discoverable under the *Jencks* Act, and the government's practice of destroying the notes after preparation of the witness interview report is not justified either on the grounds that preservation of the notes would impose an intolerable burden on the government or that all of the information was preserved in the report. 18 U.S.C.A. Section 3500. See also, *United States v. Maynard*, 476 F.2d 1170, 176-78 (D.C. Cir.1972) and *United States v. Bundy*, 472 F.2d 1266, 1267 (D.C. Cir., 1972), but see *United States v. Terrell*, 474 F.2d 872, 877 (2nd Cir., 1973)(*Jencks* Act imposes no duty on law enforcement officers to retain rough notes when their contents are in official records and they destroy their notes in good faith). However, *Terrell* also held that such rough notes are producible except when they are destroyed in good faith. It is Dr. Anand’s position that no destruction can be made in good faith after this request for the preservation of such agency's rough notes.

WHEREFORE, Defendant, Neil K. Anand, respectfully requests this Honorable Court GRANT his motion and require the government to preserve all rough notes until such time as the Court can rule on whether the notes are discoverable.

Respectfully submitted,

Dated: October 16, 2023

/s/ Coley O. Reynolds
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Order

AND NOW, this _____ day of _____, 2023, upon consideration of Neil K. Anand's Motion for Government Agents to Retain Rough Notes, it is hereby ORDERED and DECREED that said Motion is GRANTED and the government agents in this matter shall retain their rough notes until further order of the Court.

By the Court:

HON. GENE E.K. PRATTER
Judge, United States District Court

Certificate of Service

I, Coley O. Reynolds, Esquire, counsel for Neil K. Anand, the defendant, hereby certify a true and correct copy of the attached Motion has been served upon the following:

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Dated: October 16, 2023

/s/ Coley O. Reynolds
Coley O. Reynolds, Esquire